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September 25, 2002

Ms. Marlene Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, S.W., Room TW-B204
Washington, DC 20554

Re: *Notice of Ex Parte Presentation*: Local Number Portability, CC Docket No. 95-116

Dear Ms. Dortch:

On Tuesday, September 24, 2002, Pat Chirico and I met with Deena Shetler, Deputy Division Chief; Lenworth Smith, Assistant Division Chief; and Margaret Dailey, Attorney, all of the Pricing Policy Division of the Wireline Competition Bureau, to discuss NECA's Petition for Reconsideration of the Commission's *Order on Reconsideration*.¹ In this meeting, NECA urged the Commission to reconsider its decision not to allow non-LNP capable ILECs to recover carrier-specific ongoing LNP-related costs through normal accounting and separations processes, or in the alternative, not limit recovery through end user charges to carriers only within EAS areas.

The details of this discussion are summarized in the attached material. In accordance with Commission rules, one electronic copy of this notice is being filed and I request that you make this a part of the proceeding's record.

Sincerely,

A handwritten signature in cursive script that reads "Colin Sandy". The signature is fluid and stylized, with the first and last names clearly legible.

Colin Sandy

cc: Deena Shetler
Lenworth Smith
Margaret Dailey



Petition for Reconsideration
On LNP Cost Recovery
September 24, 2002

Recovery of “Ongoing” LNP Costs

- All LECs incur ongoing LNP costs
 - for LNP Database Administration – to support regional Number Administration Centers (NPACs)
 - for N-1 query costs for intraLATA toll calls.
- LECs also incur one-time costs when converting to LNP capability.
- FCC rules permit LNP-capable LECs to recover one-time costs and ongoing costs via end user charges for five-year period through access.
- After expiration of five-year period, LNP-capable LECs may recover their ongoing costs via access charges.

This is not a new issue!

- 1998 – FCC *Third Report and Order* permits LNP-capable companies to recover LNP implementation costs for a five-year period in an end-user charge
 - NECA files Expedited Petition for Reconsideration seeking clarification of how non-LNP-capable ILECS can recover LNP-related costs.
- 1999 – NARUC urges FCC to take action on cost recovery problem
 - At FCC staff suggestion, NECA files petition for Expedited Interim Waiver in March 1999.
 - NECA files its reply in April 1999.
- 1998 – 2002 – NECA & Associations conduct numerous *Ex Parte* meetings with Commission staff to discuss cost recovery problem
 - July 13, 1998; October 30, 1998; March 9, 1999; March 18, 1999; June 22, 1999; June 23, 1999; August 11, 1999; September 24, 1999; October 25, 1999; November 1, 1999; March 3, 2000; October 6, 2000; November 28, 2000; December 7, 2000; December 11, 2000; December 15, 2000; December 18, 2000; April 12, 2001; May 2, 2001; July 25, 2001; December 6, 2001; December 7, 2001; January 3, 2002; January 17, 2002.
- 2002 – FCC issues Third Order in Numbering Resources Optimization Proceeding permitting recovery of TBNP costs (similar to LNP costs) in access charges
 - NECA, Associations file comments urging FCC to adopt similar recovery methods for ongoing LNP costs of non-LNP capable ILECs.

Order on Reconsideration

- The Commission's Order on Reconsideration now recognizes that non-LNP capable ILECS have “long-term number portability shared costs and additional query costs...[and] would be financially disadvantaged if they were not allowed recovery of these costs.”
- The *Order* allows non-LNP capable carriers in EAS areas to recover costs through end-user charges.
- Most carriers are not in EAS areas.
- Thus, most carriers are still without a recovery mechanism.

Access Charge Recovery

- Recovery of LNP costs through access charges does not violate section 254(e) or 251(e)(2) of the Communications Act.
- LNP-capable carriers are currently permitted to recover ongoing LNP costs in access charges following expiration of the five-year period for end-user recovery.
- Carriers are also permitted to recover similar TBNP implementation costs via access charges.
- Areas served by non-LNP capable ILECs do not face competition
 - Thus, no question of “competitive neutrality” arises in these areas.

In conclusion . . .

- The Commission should reconsider its decision not to allow non-LNP capable ILECs to recover carrier-specific ongoing LNP-related costs through normal accounting and separations processes.
- Should the Commission insist on recovery through end user charges, recovery should not be limited to carriers in EAS areas.